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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,663	10/20/2000	Jonathan J. King	STE01 P-1069	7520

277 7590 12/15/2004

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EXAMINER

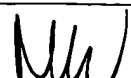
AMIRI, NAHID

ART UNIT PAPER NUMBER

3635

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/692,663	<b>Applicant(s)</b> KING ET AL.	
	<b>Examiner</b> Nahid Amiri	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 11-24 and 27-31 is/are allowed.
- 6) ☒ Claim(s) 7-9, 25, 26 and 32-33 is/are rejected.
- 7) ☐ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>27 September 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

Claims 25-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,178,702 B1 Hand et al.

In regard to claims 25-26: Hand discloses the claimed invention Fig. 28, column 11, line 18-21, the vertical post 6 having opposite side faces, each side face including outwardly vertical row of openings (slots) 17, a clip (cover) 160 including a pair of extensions 161 extending inwardly towards one another and received within one of selected opening 17 on the opposite side of faces.

Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,023,896 Rothschild.

In regard to claims 7, 32-33: Rothschild discloses the claimed invention Fig. 1, column 5, line 47-56, a partition 10 including a partition frame having a horizontally extending upper frame member 16 defining an upper edge of the partition frame, having a pair of horizontally spaced apart vertical frame members 18, 20, each defining a first cross-sectional shape and having an upper end thereof secured to the upper frame member, Fig. 13, column 7, line 39-46 having a vertically extending support member 52 defining a second cross-sectional shape that is different than said first cross-sectional shape including a connector (fastening means) 54 connected to the partition frame, having a hollow cap to cover the horizontal upper frame member which spaced above the frame member, even though the only limitation Rothschild does not disclose is a configured to abuttingly support said partition frame freestanding on a floor surface. This is functional statement as only the partition panel is claimed, it is not claimed in combination with the floor and the reference assembly does sit flat on the floor.

In regard to claim 8: Rothschild discloses the claimed invention Fig. 1, the first vertically extending support member 14 including a first support member 52; and having a second vertically extending support member 52 connected to the partition frame and supporting the horizontal hollow cap (raceway).

In regard to claim 9: Rothschild discloses the claimed invention Fig. 1, cap (raceway) has a U-shaped cross section.

### ***Response to Arguments***

Applicant's arguments with respect to claim 7-9, 32-33 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 27 September 2004 with respect to claims 25-26 have been fully considered but they are not persuasive.

In regard to applicant's argument that Hand '702 does not disclose or suggest a vertical member having opposite side faces, with each side face including a vertical row of openings and a clip including a pair of extensions extending inwardly towards ones another and received within selected ones of the openings on the opposite side faces. The Hand's '702 includes a post 6 having slots 17 with cover 160 having slotted tabs 161 and slot tab does not receive within the slot 17 of the post, wherein the tabs engage cutouts 162 of the post. Examiner disagrees.

Examiner as stated above Hand '702, Fig. 28 discloses all the structural limitation of claims 25-26, which Hand '702 clearly shows vertical member 6 having side faces, each side face with a plurality of row of openings 17 which includes cutout 162, since applicant doesn't claim any specific shape of those opening, therefore, the examiner could consider the slot 162 as opening.

Cited art used as the basis for rejection under 35 USC § 102 is only required to disclose the claimed limitations. . As discussed above, the Hand '702 discloses the claimed limitations. Additionally because Hand '702 discloses the claimed structural limitations, it is also inherently capable of performing the same functions as the claimed invention.

### ***Allowable Subject Matter***

Claims 1-6, 11-24, 27-31 stand allowed.

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Claims 10 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-305-7687. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na 

December 07, 2004

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600